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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/535,612 | 01/13/2006 | Roger T Richter | 023265.0002US | 7639 |
| 34284 | 7590 | 01/17/2007 | EXAMINER | |
| ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931 | | | KRECK, JOHN J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3673 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE | | |
| 3 MONTHS | 01/17/2007 | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | |
|------------------------------|------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/535,612 | RICHTER, ROGER T |
| | Examiner John Kreck | Art Unit 3673 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-40 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-40 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of the following informalities: it is apparent that a transitional verb such as "is" is required after "opening".
2. Claim 15 is objected to because of the following informalities: it is apparent that claim 15 should depend from claim 2, where the perforated portions are first mentioned.
3. Claim 32 is objected to because of the following informalities: it is apparent that claim 32 should depend from claim 29, where the structure is first mentioned.
4. Claim 36 lacks antecedent basis for "the low pressure dehydrated soil" it is suggested that this should read "the soil"
5. The references cited in the Search Report for PCT/US03/38839 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-13, 15-25, 27, 28, 34-36, 39, and 40 are rejected under 35

U.S.C. 102(b) as being anticipated by Vinegar, et al. (U.S. Patent number 5,318,116)

Vinegar discloses the system comprising a soil remediation cell (10); a plurality (see figure 1) of multifunctional conduits (fig.2), each conduit including heating elements (20); flow channels (including 16 and 17); and a reaction housing (e.g. near 19) as called for in claim 1. With regards to the limitation of "without utilizing mechanically driven forced air" and "at least about 80%" destroyed. These are interpreted as operational parameters. It is apparent that the Vinegar device can perform the claimed operations.

Re claims 2 and 3: Vinegar shows the perforations at 16, and the non-perforated portions are evident in the figure.

Re. Claims 4, 5, 8-13, 15, 18, 19, 22, 28, 36: these claims add only operational parameters as limitations. It is apparent that the Vinegar device can perform the claimed operations.

RE claim 16: Vinegar plainly shows the tubes.

RE claim 17: see Vinegar at 8:46.

RE claim 21: see Vinegar at 4:53.

RE claim 27: see Vinegar at 5:20.

RE claim 34-36: the vapor space is shown between 29 and 29a, or, alternatively, directly below 34.

Regarding method claim 39:

Vinegar teaches the steps of forming a soil remediation cell (10) and a plurality of conduits (11); introducing heat and volatilizing without using forced air; removing the contaminated vapor; introducing the vapor into the reaction housing; and destroying the vapor as called for in claim 39. See, in particular, col. 10, lines 52-67.

Re claim 40: the perforated portions are identified at 16.

2. Claims 1, 2, 13, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by McGee (U.S. Patent number 6,596,142).

McGee teaches the system comprising a soil remediation cell (e.g. fig. 11); a plurality of multifunctional conduits (each including 15,4,18), each conduit including heating elements (34); flow channels (e.g. 17); and a reaction housing

as called for in claim 1. With regards to the limitation of "without utilizing mechanically driven forced air" and "at least about 80%" destroyed. These are interpreted as operational parameters. It is apparent that the McGee device can perform the claimed operations.

RE claim 2: the perforations are shown at 8.

RE claims 13 and 14: the perforated portion is joined with the non-perforated near 14; which plainly is at the center.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vinegar in view of Bova, et al. (U.S. Patent number 6,000,882).

Vinegar lacks the claimed layers of soil.

Bova teaches a similar system, which includes layers of soil. It is apparent that the soil layers are a largely a matter of convenience.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Vinegar system to have included a plurality of adjacent layers of soil as called for in claim 26.

4. Claims 29, 30, 33, and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Vinegar in view of Balch (U.S. Patent number 5,228,804).

Vinegar lacks the structural enclosure.

Balch teaches a similar system, including a structural enclosure. It is apparent that the structural enclosure provides convenience for treating excavated soil. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Vinegar system to have included a structural enclosure as called for in claims 29-31 and 33.

With regards to claim 30: the open bottom is discussed at Balch 6:26.

With regards to claim 33: see Balch at 7:7-25.

Vinegar teaches insulation (see abstract) as called for in claim 37.

5. Claims 29, 31, 32, 37, and 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Vinegar in view of Payne (U.S. Patent number 4,919,570)

Vinegar lacks the structural enclosure and trailer.

Payne teaches a similar system, including a structural enclosure and trailer. It is apparent that the Payne enclosure provides portability.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Vinegar system to have included a structural enclosure as taught by Payne, to provide portability.

With regards to claim 31: the structural members are 16.

With regards to claim 32: the trailer is 68.

Vinegar teaches insulation (see abstract) as called for in claim 37.

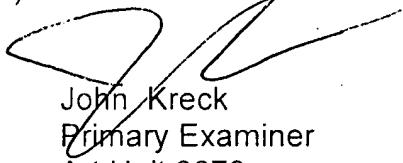
With regards to claim 38: the structures shown by Payne are stackable see 3:25-30.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is 571-272-7042.

The examiner can normally be reached on Mon-Thurs 530am-2pm; Fri: telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Kreck
Primary Examiner
Art Unit 3673

8 January 2007